

1 CHAPIN FITZGERALD SULLIVAN LLP

2 Kenneth M. Fitzgerald, Esq. (SBN: 142505)

3 kfitzgerald@cfslawfirm.com

4 Curtis G. Carll, Esq. (SBN: 248470)

5 ccarll@cfslawfirm.com

6 550 West "C" Street, Suite 2000

7 San Diego, California 92101

8 Tel: (619) 241-4810

9 Fax: (619) 955-5318

10 Attorneys for Defendant

11 Todd M. Lane

12  
13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA  
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13 **National Credit Union**  
14 **Administration Board, as Liquidating**  
15 *Agent for Western Corporate Federal*  
16 *Credit Union,*

17 Plaintiff,

18 vs.

19 **Robert A. Siravo, et al.,**

20 Defendants.

) Case No.: CV10-01597 GW (MANx)

)

) **Defendant Todd M. Lane's**  
) **Notice of Motion and Motion to**  
) **Dismiss Plaintiff's Second**  
) **Amended Complaint**

)

) Date: June 9, 2011

) Time: 8:30 a.m.

) Courtroom: Los Angeles, 10

)

) Honorable George H. Wu

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1 To Parties and Their Counsel:

2 Defendant Todd M. Lane moves the Court to dismiss the First Claim for  
3 Relief of the Second Amended Complaint under Federal Rule of Civil Procedure  
4 12(b)(6).

5 *Basis for Motion.* The Second Amended Complaint fails to allege facts  
6 sufficient to show that Lane breached his fiduciary duties to Western Corporate  
7 Federal Credit Union (“WesCorp”) in that there are no allegations that he acted  
8 in bad faith; engaged in any wrongful, misleading or improper conduct; failed to  
9 provide the Board with requested information; or abdicated his responsibilities.  
10 This argument is set forth in the memorandum of points and authorities filed in  
11 support of the Joint Officers’ Motion to Dismiss, which Lane adopts and joins.

12 In addition, the Second Amended Complaint fails the standard of  
13 specificity and plausibility under Federal Rule of Civil Procedure 8, as described  
14 in *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009), because it does not allege that Lane  
15 had a role in, or responsibility for, the actions and decisions that Plaintiff alleges  
16 caused WesCorp’s damages, i.e. the overconcentration of investments in private-  
17 label mortgage-based securities.

18 *Hearing on Motion.* This motion will be heard by the Honorable George  
19 H. Wu, United States District Judge for the Central District of California. Judge  
20 Wu will hear the motion in Courtroom 10, located at 312 North Spring Street,  
21 Los Angeles, California, on June 9, 2011, 2010 at 8:30 a.m.

22 *Pre-Motion Conference.* This motion is brought after joint-defense counsel  
23 conferred with counsel for Plaintiff, under Local Rule 7-3, on April 13, 2011, and  
24 after Lane’s counsel conferred individually with counsel for Plaintiff on the same  
25 day.

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1       *Papers Supporting Motion.* This motion is based on this notice of motion  
2 and motion, the supporting memorandum of points and authorities, the  
3 memorandum of points and authorities filed in support of the Joint Officers'  
4 Motion to Dismiss, the Second Amended Complaint, and the Request for  
5 Judicial Notice filed by the Directors in support of their Motion to Dismiss,  
6 Lane's Request for Judicial Notice, a future reply, and oral argument, if the Court  
7 permits.

8  
9 DATED: April 18, 2011

CHAPIN FITZGERALD SULLIVAN LLP

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12 By: /s/ Curtis G. Carll  
13 Kenneth M. Fitzgerald, Esq.  
14 Curtis G. Carll, Esq.  
15 Attorneys for Defendant  
16 Todd M. Lane  
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